

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 17947 |
| [Redacted], |) | |
| |) | DECISION |
| Petitioner. |) | |
| _____ |) | |

On January 7, 2004, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), asserting income tax, penalty and interest in the amount of \$4,620 for the taxable years 2000 through 2002.

On March 5, 2004, the taxpayer filed a timely protest and petition for redetermination. The taxpayer did not request a hearing and has provided no additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

This case is a follow-up to a review of the taxpayer's taxable years 1998 and 1999. In that review a Notice of Deficiency Determination was sent to the taxpayer and subsequently protested. The Tax Commission reviewed the matter and issued a decision affirming the Notice of Deficiency Determination. (See Idaho State Tax Commission Decision Docket No. 16609.) The taxpayer appealed the Tax Commission's decision to the Board of Tax Appeals, which dismissed the case because the taxpayer failed to meet the requirements for an appeal. (See Idaho Board of Tax Appeals Appeal No. 03-B-1044.)

The Bureau [Redacted] determined the taxpayer was required to file Idaho individual income tax returns for the taxable years 2000 through 2002. The Bureau contacted the taxpayer about his filing requirement and the taxpayer responded that he had no taxable sources of income. The Bureau recognized the taxpayer's statement as the same argument used in the review of the taxpayer's 1998 and 1999 taxable years, so the Bureau prepared returns for the taxpayer and sent him a Notice of

Deficiency Determination. The taxpayer protested the Bureau's determination using an argument he presented in his 1998 and 1999 case. The Bureau acknowledged the taxpayer's protest and forwarded the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for redetermining the Notice of Deficiency Determination. The taxpayer responded that he had made a public information request and, until that information was provided, any hearing would have to be postponed. The Tax Commission provided the taxpayer the information he requested. The Tax Commission also provided the taxpayer with additional information that was requested by telephone. However, since that time, the taxpayer has not contacted or responded to the Tax Commission. Therefore, the Tax Commission decided the matter based upon the information available.

The petitioner lives in [Redacted], Idaho. He did not file [Redacted] or Idaho income tax returns for the taxable years 2000 and 2001. [Redacted]

The taxpayer stated in his protest that he was not required to file. He stated the Idaho Code follows the Internal Revenue Code and he does not have income from a taxable source. The taxpayer cited Treasury Regulation 1.861-8(f)(1) as identifying the only sources of income.

The argument the taxpayer presented is one of the arguments the taxpayer argued in his protest of the deficiency determination of his 1998 and 1999 Idaho taxable income. In reviewing the facts of this case with the facts of the prior case, the Tax Commission found them substantially the same. In its prior decision, the Tax Commission addressed the taxpayer's argument, (See pages 5 and 6 of Idaho State Tax Commission Decision Docket No. 16609) and does not see the need to revisit what was stated in its prior decision to the same taxpayer. Suffice it to say, U.S. citizens (residents) are taxed on all of their income regardless of where the source is located.

In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by

the Code whether the income is received from sources within or without the United States.

Treas. Reg. § 1.1-1(b).

Furthermore, the Idaho legislature has enacted specific tax laws that govern the state's income tax. The Idaho income tax return filing requirements are set out in Idaho Code section 63-3030. A resident individual with gross income in excess of the amount provided is required to file an Idaho individual income tax return. In addition, an individual must pay Idaho income tax on his or her taxable income at the rate set forth in Idaho Code section 63-3024.

The taxpayer failed to file a return or provide any of the information necessary to determine his filing requirement or his tax liability. Likewise, the taxpayer did not dispute that he received pension/annuity income. When seeking a redetermination of the deficiency, the burden is on the petitioner to show that the tax deficiency is erroneous. It is well settled in Idaho that the deficiency determined by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Com'n, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The Bureau relied upon the income information obtained [Redacted]. Such information provides a reasonable foundation for the deficiency determined by the Bureau. The burden of proving the assessment is erroneous remains with the taxpayer. The taxpayer has failed to show the deficiency determined by the Bureau was incorrect.

Therefore, the Tax Commission finds the provisional returns to be a fair representation of the taxpayer's taxable income for the taxable years in question and that the amounts shown due on the Notice of Deficiency Determination are true and correct.

The Bureau added interest and penalty to the taxpayer's Idaho tax liability. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated January 7, 2004, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest.

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL DUE</u> |
|-------------|------------|----------------|-----------------|------------------|
| 2000 | \$1,182 | \$ 296 | \$ 298 | \$1,776 |
| 2001 | 1,106 | 277 | 194 | 1,577 |
| 2002 | 1,084 | 271 | 120 | <u>1,475</u> |
| | | | TOTAL DUE | <u>\$4,828</u> |

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]